

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.) CERTIFICATION OF A
) SEXUALLY DANGEROUS PERSON
ERNEST BENAVIDEZ,)
Register Number 08117-051,)
)
Respondent.)

The United States of America, by and through the United States Attorney for the Eastern District of North Carolina, hereby submits the attached Certification of a Sexually Dangerous Person pursuant to Title 18 U.S.C. § 4248(a).

Respectfully submitted, this 11th day of July, 2011.

THOMAS G. WALKER
United States Attorney

By: /s/ Edward D. Gray
EDWARD D. GRAY
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Attorney for Petitioner
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N.C. Bar # 37539

CERTIFICATE OF SERVICE

This is to certify that I have this 11th day of July, 2011, served a copy of the foregoing upon the Respondent in this action by placing the documents in an envelope marked as stated below, and placing the envelope in the U.S. mail for delivery to:

Ernest Benavidez
Reg. No. 08117-051
FCI Butner
P.O. Box 1000
Butner, NC 27509

and on the same day served a copy of the foregoing by placing a copy in the U.S. Mail, addressed as follows:

Office of the Federal Public Defender
150 Fayetteville Street
Suite 450
Raleigh, North Carolina 27601

/s/ Edward D. Gray
EDWARD D. GRAY
Assistant U.S. Attorney
Attorney for Petitioner
U.S. Attorney's Office
Civil Division
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CERTIFICATION OF A SEXUALLY DANGEROUS PERSON

(1) I, Ivonne E. Bazerman, am Chairperson of the Federal Bureau of Prisons (Bureau) Certification Review Panel, Washington, D.C. Pursuant to 28 C.F.R. § 0.97, the Director of the Bureau has delegated to me the authority to certify persons in Bureau custody as sexually dangerous, as authorized by 18 U.S.C. § 4248.

(2) Bureau records reflect the following: Inmate Ernest Arthur Benavidez, Register Number 08117-051, is in Bureau custody at the Federal Correctional Institution, Butner, North Carolina, in service of two, concurrent 188-month terms of imprisonment and five-year terms of supervised release, following his convictions for Crime on an Indian Reservation: Aggravated Sexual Abuse of a Child, in violation of 18 U.S.C. §§ 2241(c) and 1153, and Crime on an Indian Reservation: Aggravated Sexual Abuse of a Child by Force or Threat, in violation of 18 U.S.C. §§ 2241(a)(1) and 1153; and a concurrent 60-month term of imprisonment and three-year term of supervised release, following his conviction for Crime on an Indian Reservation: Abusive Sexual Contact, in violation of 18 U.S.C. §§ 2244(a)(1) and 1153 (D. N.M) (Case No. 1:98CR00392-001). His offense conduct included sexually touching his nephew's penis on multiple occasions when the victim was six or seven years old and threatening to kill the victim if he reported the abuse;

pulling down the pants of an eleven-year-old boy and forcibly masturbating him; and, on a subsequent occasion, forcibly sodomizing the same victim when he was twelve years old. His projected release date is November 2, 2011.

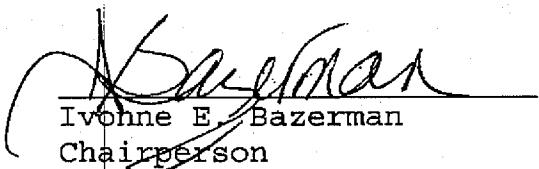
(3) Based on a review of his Bureau records, I certify he is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5), and sexually dangerous to others as defined by 18 U.S.C. § 4247(a)(6). My certification is based on information found in Bureau records which includes, but is not limited to, the following:

(a) He previously engaged or attempted to engage in sexually violent conduct or child molestation as evidenced by his current offense conduct. Additionally, he was previously convicted of Crime on an Indian Reservation: Abusive Sexual Contact, in the U.S. District Court, District of New Mexico (Case No. 92-480JC), for molesting another nephew when he was between the ages of six and thirteen years old by fondling the victim's genitalia, rubbing his penis against the victim's stomach, and performing oral sex on the victim;

(b) A psychological review and assessment indicated an Axis I diagnosis of Pedophilia, Sexually Attracted to Males, Nonexclusive Type;

(c) A review and assessment of him using an actuarial risk assessment instrument (Static-99R) was conducted. This result, in addition to his current and prior offense conduct, a lack of capacity for relationship stability, emotional identification with children, evidence of deviant sexual interests, and poor cooperation with supervision, indicate he will have serious difficulty refraining from sexually violent conduct or child molestation if released.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.


Ivonne E. Bazerman
Chairperson
Certification Review Panel
Federal Bureau of Prisons

6/13/2011
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. _____

UNITED STATES OF AMERICA,)
)
Petitioner,)
)
v.) ORDER
)
ERNEST BENAVIDEZ,)
Register Number 08117-051,)
)
Respondent.)

At the request of the Director of the Bureau of Prisons, the government has filed a Certification of a Sexually Dangerous Person pursuant to 18 U.S.C. § 4248, in order for this Court to hold a hearing to determine whether the Respondent is a sexually dangerous person as defined by 18 U.S.C. § 4247(a)(5).

Respondent, having demonstrated eligibility for appointment of counsel at government expense, the Federal Public Defender IS DIRECTED to provide representation in this action.

The Court further determines that the Respondent is unable to pay the fees of any witness, and pursuant to Federal Rule of Criminal Procedure 17(b) the Clerk shall issue a subpoena for any witness necessary to present an adequate defense to the pending charge or charges.

The Court further ORDERS that the United States Marshal shall serve any subpoenas presented to him in this case by the office of the Federal Public Defender, and shall pay the appropriate fees and expenses to witnesses so subpoenaed.

Pursuant to 18 U.S.C. section 4247(b), the Court ORDERS the appointment of a mental health examiner of the Respondent's choosing. Pursuant to this section, if the Respondent wishes to request an additional examiner, he shall request such by separate motion to this court.

Any and all future forensic reports, and other such psychological and psychiatric reports or documents relevant to this case, whether such reports are produced by the Federal Bureau of Prisons, independent examiners appointed by order of this Court, or other mental health professionals, shall be filed with this Court under seal, without need of further motion to seal, by either party. Further the Clerk is DIRECTED to permanently seal these reports in accordance with Local Civil Rule 79.2(b), E.D.N.C.

The Court hereby notifies the parties that in light of the provisions of the August 04, 2010 Standing Order, the parties will not be required to conduct an initial scheduling conference pursuant to Fed. R. Civ. P. 26(f).

This _____ day of _____, 2011.

United States District Judge